

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: §
§
§ CASE NO. 23-34815
GALLERIA 2425 OWNER, LLC §
§ CHAPTER 11
DEBTOR. §

**GENE MCCUBBIN'S EMERGENCY MOTION
TO QUASH OR MODIFY SUBPOENA**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU.

IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

To the Honorable Court:

Gene McCubbin (“McCubbin”), respectfully submits this Motion to Quash or Modify Subpoena and in support thereof states as follows:

I. INTRODUCTION

1. On January 27, 2025, Subpoena was served on McCubbin, requiring the presence of McCubbin and the production of a number of documents on January 29, 2025.
2. The timeline provided for compliance is unreasonably short and does not allow sufficient time for preparation or response, in violation of Federal Rules of Civil Procedure Rule 45(d)(3)(a).
3. Furthermore, the required date conflicts with the observance of Chinese New Year, a significant cultural and religious holiday for McCubbin, which begins on January 29, 2025, and traditionally involves a number of family obligations and religious rituals, cultural practices.

II. LEGAL STANDARD

4. Under Federal Rules of Civil Procedure Rule 45(d)(3)(a) the court may quash or modify a subpoena or order if it imposes an undue burden on the responding party or is otherwise unreasonable.
5. A party is entitled to a reasonable amount of time to respond and to object to any request or requirement that interferes with personal or cultural commitments or unduly burdens their ability to comply.

III. ARGUMENTS

6. **Insufficient Time to Respond:** The Subpoena was served on January 27, 2025 with a compliance deadline of January 29, 2025, allowing only 2 days. This timeframe is unreasonably short, depriving McCubbin of adequate time to gather materials, consult counsel, and prepare.

7. **Conflict with Chinese New Year:** The compliance date of January 29, 2025 falls during Chinese New Year celebrations, which are of great cultural and personal significance. Observance of this holiday entails a number of familial commitments, making compliance on the requested date an undue burden.
8. **No Prejudice to the Opposing Party:** Quashing the Subpoena will not cause undue prejudice to the opposing party, as the matter is not time-sensitive.

IV. RELIEF REQUESTED

WHEREFORE, Gene McCubbin respectfully requests that this Honorable Court:

1. Quash the Subpoena OR
2. Modify the Subpoena/ to provide a reasonable extension of time to respond or appear after the conclusion of Chinese New Year; AND
3. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

By: /s/ Gene McCubbin
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Houston, Texas 77077
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Pro se

CERTIFICATE OF CONFERENCE

Pursuant to [LOCAL RULE REQUIRING A CERTIFICATE OF CONFERENCE], I hereby certify that on January 28, 2025, I, conferred with opposing counsel in a good faith effort to resolve the issues raised by this motion. [[Counsel for] [PARTY NAME] indicated that [PARTY NAME] does not oppose the requested relief in this motion/The parties were unable to resolve the issues raised in this motion because [REASONS THE DISPUTE WAS NOT RESOLVED]/[PARTY NAME] opposes the relief requested in this motion/The parties were unable to confer despite my reasonable attempts to reach Charles Conrad, including [DESCRIPTION OF ATTEMPTS TO CONFER].]

CERTIFICATE OF SERVICE

I certify that, on January 28, 2025, I caused a copy of the foregoing emergency motion to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, which will send a Notice of Electronic Filing to counsel of record for the parties to this case to the following parties via email:

Charles C. Conrad
609 Main Street Suite 2000
Houston, TX 77002
charles.conrad@pillsburylaw.com

/s/ Gene McCubbin
Gene McCubbin